REMARKS

35 USC §103 Rejections

Each pending independent claim (1, 13, 17-19) has been rejected under 35 USC § 103 using a combination of Li (US Publication 2004/0119726) and Jia (US Publication 2003/0021468). Li and Jia are also used to reject pending dependent claims 2-12, 14-16, 20-21, and 23-34. Oberg (US Patent 5,870,771) is used in combination with both Li and Jia to reject pending dependent claims 22 and 35-36. The independent claims (1, 13, 17-19) will be discussed first.

One requirement for making a prima facie case for an obviousness rejection is that each element found in each pending claim must be present in the cited art. Applicant respectfully submits that the cited art does not have each element found in each pending independent claim.

Each pending independent claim (1, 13, 17-19) has, amongst other elements, the following three:

(1) the element of being a mobile communication device;

(2) the element of being usable for wireless communications; and,

(3) the element of a frame having a scalable dimension, the scalable dimension independent from the size and resolution of the image.

The first two element are found in each claims' preamble, and, being structural elements, are claims limitations (MPEP 2111.02).

For element (1), neither Li nor Jia disclose mobile communication devices. Further, neither discloses a modification of any part of their disclosure so as to work in mobile communications devices. Mobile communications devices (exemplar: cell phones) have unique hardware and software designs stemming, in part, from their packaging restraints and functional requirements. These are not the same types of devices as, say, desktop computers or printers which have no similar restraints on their designs. Mobile communications devices require tailored solutions to meet desired functionality due to their unique architectures. If the Examiner disagrees, and believes Li and Jia disclose mobile communications devices, Applicant respectfully requests specific cites to the disclosure in the cited art so Applicant can appropriately respond.

For element (2), neither Li nor Jia disclose wireless communications (no discussion on wireless communications). The OA suggested that Jia discloses wireless communications by referencing figure 1, reference numbers 12b and 14c, with no text support. Applicant respectfully disagrees with the assertion. Those references in Jia are for a network source and network destination as part of a set of standard peripherals for a standard computing device (Jia, ¶ 0037-0038, including descriptions of tape drives, disks (mass storage), printers, scanners, and similar peripherals). Standard computing devices as described in

Jai use wired connections. Wireless communications requires additional hardware and software and results in a device with different internal architecture, as compared to a standard PC or computing device. Such additional hardware and software, and the associated ability to use wireless communications, is not mentioned in any way in Jai; there is no disclosure for wireless communications. If the Examiner disagrees, and believes Jia discloses wireless communications abilities, Applicant respectfully requests specific cites to such material in Jia so Applicant can appropriately respond.

For element (3), Applicant respectfully disagrees with the OA assertion that Jai discloses a frame having a scalable element independent from a size and resolution. The language quoted from Jai only discloses that a framed image may be adjusted, and then goes on to describe parameters used to automatically generate a frame that matches the image in specified visual ways (color, hue, intensity, warmth, coolness, etc.). The following language shows how changes to images are made in Jai:

> "...The unframed image 22 may, as will be discussed subsequently, be scaled in size or otherwise adjusted to form the representation 22' that is included in the framed image 26. At 110, it is determined whether or not the data set for the framed image 24 should be modified; usually this includes providing a visual preview of the framed image 26 to a user. If the user wishes to modify the framed image ("Yes" branch of 10), he or she can modify the mapping relationship at 112 as will be described subsequently, and the method branches to 106 to redetermine the frame attributes. ..." (Jai, ¶ 0021, emphasis added)

> "... Some embodiments also allow the user to specify the number and width of the borders, the desired size of the framed image 26, and/or a scaled size for the representation 22' of the unframed image. After the mapping relationship has been modified, the determining 106 of frame attributes is performed again. ..." (Jia, ¶ 0035)

Jia discloses that an image can be changed by a user in several ways. For sizing, Jai discloses the unframed image can be scaled in size, as described in 0021, or the external dimensions of both image and frame can be selected as described in 0035. Jai then goes on to state that after such parameters are selected by a user, the frame is regenerated using the complex, but artistically pleasing, method described in his application. There is no disclosure in Jai to scaling a frame as presently claimed; rather, Jia discloses that his frame is regenerated using any changed parameters such as color scheme, intensity, texture, and image dimensionality.

Thus, Jai does not disclose a frame having a scalable element independent from a size and resolution, as presently claimed in each pending independent claim. If the Examiner disagrees and believes Jia discloses this element, Applicant respectfully requests specific cites to such material in Jia so Applicant can appropriately respond.

For completeness, Applicant notes that Oberg also does not disclose these missing elements.

Because there are, at the least, elements in each pending independent claim (1, 13, 17-19) that are not in the cited art, the presently pending independent claims are patentable over the cited art. Other issues pertaining to the prima facie case for obviousness need not be reached at this time, but may

be addressed by Applicant in future communications if needed. These issues

include, but are not limited to, a teaching or suggestion to combine the cited

references.

Each pending dependent claim (2-12, 14-16, 20-36) inherits the claims

limitations found in the independent claim from which it eventually depends. As

each pending independent claim is patentable over the cited art for at least the

reasons discussed above, for the same reasons each pending dependent claim

is also in condition for allowance. Each dependent claim has further elements

going towards patentability which are not reached at this time, but are reserved

for future interactions as needed.

Conclusion

Applicant believes the presently pending claims (1-36) are in condition for allowance for the reasons discussed above, and respectfully requests a notice of allowance thereby. Please feel free to contact Applicant's attorney (below) with any questions or other matters regarding the pending application.

Respectfully submitted,

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